

BEFORE THE GEORGIA TAX TRIBUNAL
STATE OF GEORGIA



APR 20 2023

FAIRCLOTH WELDING & FAB, INC., *

Petitioner,

v.

**ROBYN A. CRITTENDEN, in her
Official Capacity as Commissioner of
the GEORGIA DEPARTMENT OF
REVENUE,**

Respondent.

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DOCKET No.: 2312529


Clara Davis, Tax Tribunal Administrator

ORDER OF DISMISSAL

Respondent, ROBIN A. CRITTENDEN, Commissioner of the Georgia Department of Revenue, submitted a Motion to Dismiss to this Court on March 9, 2023. Respondent filed this motion in response to Petitioner's appeal seeking review of the denial of a requested tax refund, letter ID L1133166152, for sales & use tax for periods January 2016 to December 2019. The Petition was submitted on November 14, 2022. Letter ID L1133166152 was issued on October 16, 2020.

The Tribunal has jurisdiction over refund petitions filed pursuant to O.C.G.A. § 48-2-35. See O.C.G.A. § 50-13A-9(a). Pursuant to subsection (c)(6)(A)(i), no action or proceeding for the recovery of a refund shall be commenced after the expiration of two years from the date the claim is denied. See O.C.G.A. § 48-2-35(c)(6)(A)(i).

The instant Petition was submitted to the Tribunal on November 14, 2022, which is over two years from the date of the commissioner's denial of Petitioner's refund request on October 16, 2020. Since the Petition was filed after the expiration of two years from the date the claim was denied, the Tribunal lacks subject matter jurisdiction in this case.

Because the Tribunal lacks subject matter jurisdiction over this matter, Respondent's Motion to Dismiss is **GRANTED** and the foregoing action is **DISMISSED**.

SO ORDERED, this 20th day of April 2023.

Lawrence E. O'Neal

LAWRENCE E. O'NEAL, JR.
CHIEF JUDGE
GEORGIA TAX TRIBUNAL